

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Allen's TV Cable Service, Inc.)	File No.: EB-11-OR-0134
)	NAL/Acct No.: 201232620001
Morgan City, Louisiana)	FRN: 0003746898
)	Community Unit No.: LA0006

ORDER

Adopted: April 23, 2013

Released: April 23, 2013

By the Regional Director, South Central Region, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Allen's TV Cable Service, Inc. (ATVCI). The Consent Decree settles an investigation and Notice of Apparent Liability for Forfeiture and Order¹ regarding ATVCI's possible violation of Sections 76.1700(b) of the Commission's rules (Rules),² pertaining to the availability of public inspection files during regular business hours.

2. The Bureau and ATVCI have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether ATVCI possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,³ and Sections 0.111, 0.204, 0.311, 0.314 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ See *Allen's TV Cable Service, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 1438 (Enf. Bur. 2012).

² 47 C.F.R. § 76.1700(b).

³ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁴ 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Allen's TV Cable Service, Inc. at 800 Victor II Blvd, PO Box 2643, Morgan City, LA 70380, and to James M. Smith, its attorney, at Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue NW, Suite 800, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director
South Central Region
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Allen's TV Cable Service, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into possible violations of Section 76.1700(b) of the Commission's rules¹ pertaining to the availability of public inspection files during regular business hours.

I. DEFINITIONS

1. For purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree, without change, addition, deletion, or modification.
 - (c) "ATVCI" means Allen's TV Cable Service, Inc.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Cable Public File Rules" refers to the provisions of 47 C.F.R. § 76.1700 *et seq.*, which require that an operator of a cable television system having more than one thousand subscribers maintain for public inspection a file containing certain records.
 - (f) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (g) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which ATVCI is subject by virtue of its business activities, including but not limited to, the Cable Public File Rules.
 - (h) "Compliance Plan" means the compliance obligations, programs and procedures described in this Consent Decree at paragraph 9.

¹ 47 C.F.R. §76.1700(b).

- (i) “Covered Employees” means those employees and agents of ATVCI who perform, or supervise, oversee, or manage the performance of, duties that relate to ATVCI’s responsibilities under the Cable Public File Rules.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (k) “Investigation” means the investigation initiated by the Bureau regarding the availability of ATVCI’s public inspection file.
- (l) “NAL” means the Notice of Apparent Liability for Forfeiture and Order released by the Bureau on February 12, 2012, *Allen’s TV Cable Service, Inc.*, 27 FCC Rcd 1438 (Enf. Bur. 2012).
- (m) “Compliance Procedures” means the standard, internal operating procedures and compliance policies established by ATVCI to implement the Compliance Plan.
- (n) “Parties” means ATVCI and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Section 76.1700(b) of the Rules states that “the public inspection file [of cable system operators] shall be maintained at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any other accessible place in the community served by the system unit(s). The public inspection file shall be available for public inspection at any time during regular business hours.”²

3. On October 26, 2011, agents of the Enforcement Bureau’s New Orleans Office requested to inspect ATVCI’s public inspection file during regular business hours, but were unable to access the public inspection file. (ATVCI represents that this was attributable to the coincidental absence of the designated compliance officers at the time of the initial visit). The agents viewed the file the next day and found it to be satisfactory. On February 13, 2012, a Notice of Apparent Liability for Forfeiture and Order was issued based upon these facts. ATVCI’s counsel subsequently approached the Bureau about entering into a Consent Decree. As directed in the Notice of Apparent Liability for Forfeiture and Order, ATVCI certifies under penalty of perjury that its public inspection file was publicly available during regular business hours as of March 13, 2012.

II. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provision of the Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

5. **Jurisdiction.** ATVCI agrees that the Bureau has jurisdiction over it and the matters contained in the Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

² 47 C.F.R. § 76.1700(b).

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration of the termination of the Investigation, ATVCI agrees to the terms, conditions and procedures contained herein. The Bureau further agrees in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against ATVCI concerning the matters that were the subject of the Investigation.

8. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, ATVCI shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that ATVCI complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Cable Public File Rules prior to assuming his/her duties.

9. **Compliance Plan.** For the purposes of settling the matters set forth herein, ATVCI agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a revised Compliance Plan to ensure compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Cable Public File Rules, ATVCI shall implement the following procedures:

- a) **Compliance Procedures on Public Inspection File Rules.** Within sixty (60) calendar days after the Effective Date, ATVCI shall establish Compliance Procedures that all Covered Employees must follow to help ensure ATVCI's compliance with the Public Inspection File Rules. ATVCI's Compliance Procedures shall include internal procedures and policies specifically designed to ensure that ATVCI complies with the requirements of the Cable Public File Rules. ATVCI also shall develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Cable Public File Rules. At a minimum, the Compliance Checklist shall require Covered Employees to ensure that the Cable Public File Rules are being followed.
- b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Public Inspection File Rules and set forth the procedures that Covered Employees shall follow to help ensure ATVCI's compliance with the Public Inspection File Rules. ATVCI shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. ATVCI shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- c) **Compliance Training Program:** ATVCI shall establish and implement a Compliance Training Program on compliance with the Cable Public File Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of ATVCI's obligation to report any noncompliance with the Cable Public File Rules under paragraph 10 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. ATVCI shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

10. **Reporting Noncompliance.** ATVCI shall report any noncompliance with the Cable Public File Rules and with terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that ATVCI has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that ATVCI has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Regional Counsel, South Central Region, Enforcement Bureau, Federal Communications Commission, Atlanta Office, 3575 Koger Blvd. Suite 320, Duluth, GA 30096, with a copy submitted electronically to SCR-Response@fcc.gov.

11. **Compliance Reports.** ATVCI shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- a) Each Compliance Report shall include a detailed description of ATVCI's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Cable Public File Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of ATVCI, stating that the Compliance Officer has personal knowledge that ATVCI (i) has established and implemented the Compliance Plan; and (ii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 10 hereof.
- b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules, 47 C.F.R. § 1.16, and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of ATVCI, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that ATVCI has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that ATVCI has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- d) All Compliance Reports shall be submitted to the Regional Counsel, South Central Region, Enforcement Bureau, Federal Communications Commission, Atlanta

Office, 3575 Koger Blvd. Suite 320, Duluth, GA 30096, with a copy submitted electronically to SCR-Response@fcc.gov.

12. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 8-11 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

13. **Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints against ATVCI for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by ATVCI with the Communications Laws.

14. **Voluntary Contribution.** ATVCI agrees that it will make a voluntary contribution to the United States Treasury in the amount of eight thousand dollars (\$8,000) within thirty (30) calendar days after the Effective Date. ATVCI shall also send electronic notification of payment to SCR-RESPONSE@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** ATVCI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. ATVCI shall retain the right to challenge the Commission interpretation of this Consent Decree or any terms contained herein. If either Party (or the United State on behalf of the Commission) brings a judicial

³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

action to enforce the terms of the Adopting Order, neither ATVCI nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and ATVCI shall waive any statutory right to a trial *de novo*. ATVCI hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which ATVCI does not expressly consent) that provision will be superseded by such Rule or Commission order.

18. **Successors and Assigns.** ATVCI agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with requirements of the Communications Laws.

20. **Modifications.** This Consent Decree cannot be modified without the advance written Consent of both Parties.

21. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of ATVCI represents and warrants that he is authorized by ATVCI to execute this Consent Decree and to bind ATVCI to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

23. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

By: Dennis P. Carlton

Regional Director, South Central Region

Enforcement Bureau

Date: _____

ALLEN'S TV CABLE SERVICE, INC.

By: Gregory A. Price

President

Date: _____